

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries, Wage and Hour Division

839-025

Agency and Division

Administrative Rules Chapter Number

Conforms Prevailing Wage Rate rules to legislation; clarifies definition of "apprentice"; amends contract specifications requirements

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Rules Pertaining to Prevailing Wage Rates on Public Works

Statutory Authority: ORS279C.808

Other Authority: HB 3651 (2010)

Stats. Implemented: ORS 279C.800 – 279C.870

Need for the Rule(s): The proposed rule amendments conform the agency's PWR rules to the provisions of HB 3651, passed by the 2010 Legislature, amending the definition of "public works" in the PWR law to include solar construction and installation projects on property owned by a public body, regardless of whether or not funds of a public agency are used. The proposed rule amendments also clarify that in order for workers to qualify and be paid as apprentices under the PWR law, they must be employed by "registered training agents" pursuant to ORS 660; the Apprenticeship and Training law. In addition, the proposed rule amendments permit contracting agencies to provide in the contract specifications for projects subject to both the state PWR law and federal Davis-Bacon Act that the applicable state prevailing wage rates are those that are in effect at the time the applicable federal prevailing wage rates are effective, simplifying the determination of the applicable effective date of state and federal wage rates on projects subject to both state and federal law. And finally, the proposed rule amendments simplify the provision of applicable wage rate information in contract specifications by allowing references to where such information can be obtained, rather than including the wage rates themselves.

Documents Relied Upon, and where they are available: HB 3651 available on the Oregon State Legislature website at <http://www.leg.state.or.us/10ss1/measpdf/hb3600.dir/hb3651.en.pdf>; Draft minutes of the September 23, 2010 meeting of the Prevailing Wage Advisory Committee, available upon request from the Bureau of Labor and Industries.

Fiscal and Economic Impact: No substantive fiscal/economic impact is anticipated in addition to the provisions of HB 3651. (During the legislative session, the agency indicated that adoption of HB 3651 could result in an indeterminate Other Funds revenue impact in public agency fees paid, depending on the number and dollar value of solar projects newly subject to the law.) Public agencies are required to pay to the Bureau of Labor and Industries a fee of one tenth of one percent (.001) of the contract price for covered projects; with a minimum fee of \$250 and a maximum fee of \$7,500. In addition, contractors employing workers on projects subject to the PWR law are required to pay minimum wage rates established by the Bureau of Labor and Industries. It is not anticipated that there will be a significant number of solar projects newly subject to the law.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): See above.
- 2. Cost of compliance effect on small business (ORS 183.336): None beyond the provisions of HB 3651.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: All construction businesses employing registered apprentices or performing solar installation projects on publicly-owned businesses are subject to the rule. It is estimated that 4,600 construction businesses in Oregon would be classified as "small businesses."
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Solar installation contractors newly subject to the provisions of HB 3651 are required to comply with the recordkeeping provisions of the PWR law, including the requirement to submit certified payrolls to the applicable public agency.
 - c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? Because these proposed rule amendments are conforming, clarifying, and streamlining in nature, with no particular impact on "small businesses," no small business involvement was deemed necessary.

Administrative Rule Advisory Committee consulted?: The legislatively established Prevailing Wage Advisory Committee reviewed and approved the proposed rule amendments relating to apprentices and contract specifications requirements.

If not, why?:



Brad Avakian

November 10, 2010

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007